

**MINUTES OF THE
GREENSBORO BOARD OF ADJUSTMENT
MAY 27, 2008**

A regular meeting of the Greensboro Board of Adjustment was held on Tuesday, May 27, 2008 at 2:00 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair John Cross, Rick Pinto, Russ Parmele, Brian Pearce, Ryan Shell, and Scott Brewington. Staff present were: Loray Averett, Zoning Services Coordinator and Rawls Howard, Zoning Administrator, as well as Jerry Kontos, City Attorney's Office and David Jones, Chief City Building Inspector.

Chair Cross called the meeting to order and explained the policies and procedures of the Board of Adjustment. He further explained the manner in which the Board conducts its hearings and the method of appealing any ruling made by the Board. The Chair advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

APPROVAL OF MINUTES OF LAST MEETING

Mr. Brewington moved to approve the minutes of the April 28, 2008 meeting minutes as submitted, seconded by Mr. Shell. The Board voted 6-0 in favor of the motion. (Ayes: Cross, Pinto, Parmele, Pearce, Shell, and Brewington. Nays: None.)

After approval of the minutes, an attendance correction to amend the April minutes to include that Brian Pearce was present and Russ Parmele was absent.

Ms. Averett delivered to the Board copies of current member status regarding term expiration and renewals.

Staff was sworn in for items addressed on the agenda.

NEW BUSINESS:

VARIANCE:

- A) BOA-08-11: 311 KING STREET AND 203 MCADOO AVENUE CITYVIEW APARTMENTS, LLC REQUEST VARIANCES FROM A MINIMUM REQUIRED CENTERLINE STREET SETBACK. THE DOWNTOWN CB ZONING DISTRICT SETBACK IS ZERO LOT LINE OR 30 FEET FROM THE CENTERLINE (WHICHEVER IS GREATER). VIOLATION #1: AN EXISTING ACCESSORY USE CLUBHOUSE BUILDING ENCROACHES 4.11 FEET INTO A REQUIRED 30 FOOT SETBACK FROM THE CENTERLINE OF MCADOO AVENUE; THUS THE FACE OF THE BUILDING WILL BE 0.89 FEET FROM THE LOT LINE. VIOLATION #2: A PROPOSED MULTIFAMILY BUILDING WILL ENCROACH 4.29 FEET INTO A REQUIRED 30 FOOT SETBACK FROM THE CENTERLINE OF MCADOO AVENUE; THUS THE FACE OF THE BUILDING WILL BE 0.71 FEET FROM THE LOT LINE. TABLE 30-4-6-1, PRESENT ZONING-CB, BS-1, CROSS STREET-KING STREET. (GRANTED)**

Rawls Howard stated that Cityview Apartments, LLC is the owner of the property located at 311 King Street and 209 McAdoo Avenue. The property is located on the eastern side of McAdoo Avenue, west of Murrow Boulevard, and south of East Washington Street on zoning map block sheet 1 and is currently zoned CB. The applicant has constructed a clubhouse which encroaches 4.11 feet into a required 30-foot setback from the centerline of McAdoo Avenue and is proposing to construct a twenty-four unit multifamily building which will encroach 4.29 feet into a 30-foot centerline setback from McAdoo Avenue. The street setback requirement is zero lot line or 30 feet from the centerline (whichever is greater). The entire lot consists of approximately six acres and is irregular in shape due to combinations of pre-existing various small lots. The applicant is proposing a total of 276 units for the site. McAdoo Avenue has a 50-foot dedication, which places the centerline at 25 feet. By placing the buildings right at the lot line, the buildings do not meet the 30-foot setback from the centerline. McAdoo Avenue would have to have a minimum 60-foot dedication for a building to be constructed at the property line and still meet the minimum centerline setback requirement. Directly south of the clubhouse building is a special purpose lot which contains a cell tower. The tower is also located in the CB zoning district and is exempt from development standards that are typically associated with wireless telecommunication towers. On August 8, 2006, the applicant was granted a variance to allow four multifamily buildings which encroach into a centerline setback adjacent to King Street. A copy of the minutes for that case is included in each Board Member's packet. At that time, the site plan showed the proposed buildings met centerline setbacks for the portion of the property that was adjacent to the McAdoo Street right-of-way; thus no variance for that portion of the property was required. Since that date, the applicant has revised his plan for the location of building #7, and a foundation survey indicated the recently constructed clubhouse did not meet the minimum centerline setback. The clubhouse and the proposed building will not encroach into any portions of any right-of-way. The adjacent properties located to the north, east, and south are zoned LI, the properties located on the western side of McAdoo Avenue are zoned LI and TN1.

Chair Cross asked if there was anyone wishing to speak in favor of this matter.

Seth Coker, 305 Blandwood Ave., was sworn in and presented documents to the Board pertaining to the multi-building, multifamily development on the property. He stated that the development is a Class A Apartment Community, of 276 units, involving a \$31 million investment in Downtown. Urban design was done to complement the investment going into the Central Business District. He also presented pictures of the development, and the building and property in violation. He stated that the multi-building development gave him reason to believe that previous variances were considered project variances rather than building specific variances. In 2007 various revisions were submitted to the Planning Department concerning buildings under construction at the time at 301, 303, 305, 307, and 311 King St. These buildings were all constructed, and received Certificates of occupancy in late 2007 and early 2008. In March 2008 another revised site plan to the Planning Department showing exact locations of the remaining buildings to be constructed; 309 King St. and 201, 203, and 205 McAdoo Ave. At that time he was informed about the need for a variance for 311 King St. and 203 McAdoo Ave. for the 30 foot street centerline setback. The Street right of way for McAdoo Ave. and King St. is 50 feet. He stated that the lot is the narrowest in the Central Business District, besides possibly Paisley St. The first five buildings constructed are built essentially up to the lot line, leaving an 8-foot sidewalk between the street and the buildings. Similar spacing between the buildings and the street are requested in the variance for the property to be constructed at 203 McAdoo. The narrowness of the lot prevents multifamily construction under current setback requirements. It would also prevent street frontage from being uniform. The request is to allow the building to be

constructed at the lot line, consistent with what is believed to be the desired setback for the Central Business District. He restated reasons for giving the variances; the project would have been infeasible given the narrow right-of-way of King St. and McAdoo Ave., the property is unusually shaped, there is significant railroad right-of-way and topography issues with the property, the variance will allow for an 8 foot sidewalk between the buildings and the street, it creates a uniform street frontage along the project, it is consistent with other property in the Central Business District, and the new Land Development Ordinance that is being drafted the 30-foot from street centerline setback is eliminated.

Chair Cross asked if there was anyone wishing to speak in opposition to the request and no one came forward.

The Board members commented that it was felt that the project was granted variances previously; there was no reason not to allow the variance as it has been allowed for the rest of the project, and that construction on the lot line is the desired construction for the Central Business District.

Mr. Pinto moved that in regard to BOA-08-11 the facts as presented by staff be incorporated as findings of fact and the Zoning Enforcement Officer be overruled and the variance be granted based upon the following; first, by incorporating by reference the same findings that were made in the August 8, 2006 meeting in BOA-06-38 on the same property, in addition to the reason set forth therein and incorporated by reference, the applicant could make no reasonable use of the property if the applicant complies with the ordinance given that the property is very narrow, the multifamily dwellings would be very difficult to place on the property if the street centerline setback were followed, the property is irregular in shape, there is significant railroad right-of-way on the property, and there is significant topography on three sides of the property, all of which make it very difficult to place multifamily dwellings on the property. The request is to allow construction to go up to the lot line, which has been allowed by this Board for the other buildings on the property, thus this would create uniformity in the buildings. It would comply with the 'either/or' standards of lot line or 30 foot street centerline setback in the ordinance. The hardship, of which the applicant complains, results from the unique circumstances summarized. It is not of the applicants own making. The Board attempts to encourage development in the center city area, and it is the belief of the Board that the 30-foot street centerline setback requirement is being eliminated in the draft Land Use Ordinance, and lot line building is being encouraged. The building is in harmony with the general purpose and intent of the ordinance, and preserves its spirit as already set forth. The granting of the variance preserves the general safety and welfare, particularly due to the preservation of sidewalk space between the building and roadway. The motion was seconded by Mr. Brewington. The Board voted 6-0 in favor of the motion. (Ayes: Cross, Pinto, Parmele, Pearce, Shell, Turner, and Brewington. Nays: None.)

Mr. Pinto further moved to include both Violation #1 and Violation #2 into the previous motion for the reasons given in the motion, seconded by Mr. Brewington. The Board voted 6-0 in favor of the motion. (Ayes: Cross, Pinto, Parmele, Pearce, Shell, and Brewington. Nays: None.)

B) BOA-08-12: 15 CLUBVIEW COURT JAMES KIRKPATRICK REQUEST VARIANCES FOR A DETACHED ACCESSORY DWELLING UNIT THAT WILL ENCROACH INTO A REAR SETBACK, AND A BUILDING SEPARATION REQUIREMENT FROM THE PRINCIPAL DWELLING. VIOLATION #1: A PROPOSED DETACHED ACCESSORY DWELLING UNIT WILL ENCROACH 10 FEET INTO A 30-FOOT REAR SETBACK.

TABLE 30-4-6-1 AND SECTION 30-5-2.3.2 ((7)). VIOLATION #2: THE SAME PROPOSED DETACHED ACCESSORY DWELLING WILL ENCROACH 5 FEET INTO A 10-FOOT SEPARATION REQUIREMENT FROM THE PRINCIPAL DWELLING.
TABLE 30-4-6-1 AND SECTION 30-5-2.3.2 ((7)). PRESENT ZONING-RS-15, BS-46, CROSS STREET-NORTH HOLDEN ROAD. (DENIED)

Rawls Howard stated that James Kirkpatrick is the owner of a parcel located at 15 Clubview Court. The lot is located on the northwest side of Clubview Court, west of North Holden Road, on zoning map block sheet 46 and is zoned RS-15. The lot contains a single family dwelling. The applicant is proposing to construct a two story detached accessory dwelling unit. Detached accessory dwelling units are required to meet the same setbacks as principal dwelling units and must be 10 feet from the principal dwelling. The proposed structure will be located 20 feet from the rear property line, instead of 30 feet as required. The dwelling unit is also proposed to be 5 feet from the principal dwelling instead of meeting the minimum 10-foot separation requirement. The lot is similar to a hexagon shape with irregular distances between points and contains approximately 31,145 square feet. The property is described as Starmount Forest Subdivision, lot number 8, recorded in plat book 86, on page 56. The proposed structure will contain 999 square feet. The proposed footprint is shown as 22.67 feet by 28 feet which is approximately 634 square feet. Based on the foundation footprint, the second floor will contain 365 square feet for a total area of 999 square feet. Ordinance section 30-5-2.3.2(B)(6) states: "An accessory dwelling unit shall be a maximum of 1,000-square feet in floor area or 30 percent of the gross floor area of the principal dwelling whichever is less." This structure will not exceed the 1,000 square feet. Also, the lot is allowed to have 30 percent of lot coverage with structures. Based on the size of the lot, the amount of structure allowed on the ground is 9,343 square feet. The applicant is proposing 7,347 square feet of total lot coverage with structures. The site drawing shows the detached accessory dwelling unit is connecting to the existing house by a short open walkway. Zoning does not consider this to be an attachment. The connection would have to be enclosed to be considered attached. There is a 20-foot utility easement shown across the rear of the applicant's property. The proposed building does not encroach into the easement. The rear portion of the applicant's property is adjacent to Starmount Golf Course. (*See attached photos*). The applicant's site plan shows a proposed swimming pool. Section 30-5-2.3.2(3) of the ordinance states "The accessory dwelling unit shall be part of an accessory garage or pool house meeting the NC State Building Code." If the variances are granted, a building permit for the pool must be issued prior to, or at the same time as the building permit for this proposed detached accessory dwelling unit. The adjacent properties are also zoned RS-15.

Chair Cross asked if there was anyone wishing to speak in favor of this matter.

James Kirkpatrick, 14 Clubview Ct., handed out a document to the Board members. He stated that the backyard is shortened due the required setbacks from the street front and the unique shape of the property. There is also a waste area that is a substantial distance from the fairways of the golf course. The rear yard has never been finished. There is also a 20-foot Utility easement in the rear yard. Mr. Kirkpatrick also presented a letter from the Starmount Board indicating their approval of the development.

Mr. Cross asked Mr. Kirkpatrick about the 5-foot encroachment into the 10-foot separation requirement from the principal dwelling. Mr. Kirkpatrick stated that there was a breezeway that could be enclosed, but the plan is to have the breezeway open to the pool area. Ms. Averett

stated that the application would need to be revised as an attachment, but the rear yard 30-foot setback would remain the same. Mr. Kirkpatrick stated that the building could be moved further

back, but the rear yard encroachment would increase. He further stated that there was at least 30 feet between the outside of the 20-foot utility easement and the golf course at the narrowest point. Mr. Kirkpatrick then read the letter from Starmount in to the record. The letter, From Ron Wilson, Starmount Residential, stated that Starmount has approved the plans Mr. Kirkpatrick presented them.

Mr. Pinto asked Mr. Kirkpatrick to explain how no reasonable use could be made without the granting of a variance. Mr. Kirkpatrick stated that the accessory building would also be a dwelling unit for a caregiver. He also stated that the attic is not able to be converted to a dwelling unit.

Mr. Pearson asked if the house was setback any further than the other houses on Clubview Ct. Mr. Kirkpatrick stated that the setback was similar to the other houses, but the shape and size of the lot creates less rear yard.

Chair Cross asked if there was anyone wishing to speak in opposition to the request and no one came forward.

The Board members commented that it was felt necessary to respect the needs of separation between the primary building and the accessory building for safety purposes, and that there was not enough evidence to find that no reasonable use of the property can be made without granting a variance.

Mr. Brewington moved to deny the variance for BOA-08-12, as it relates to Violation #1, based on the stated findings of fact, and that the Zoning Enforcement Officer be upheld on based upon the following: there are no practical difficulties or hardships that result from the carrying out of the strict letter of the ordinance, there is a failure to provide adequate evidence that the applicant could find no reasonable of the property based upon its marketability. The hardship, of which this applicant complains, is a result of the unique circumstances of the property, but it seems that some reasonable use can be made of the property that would comply with the ordinance. The hardship does not result from the application of this ordinance to the property, and the hardship is the result of the applicant's own action. The variance is not in harmony with the general purpose and intent of the ordinance, and does not preserve its spirit. Mr. Pinto amended the motion to include the findings of fact as presented by staff in the motion. The motion, as amended, was seconded by Mr. Pinto. The Board voted 6-0 to approve the motion. (Ayes: Cross, Pinto, Parmele, Pearce, Shell, Turner, and Brewington. Nays: None.)

Mr. Brewington moved to deny the variance for BOA-08-12, as it relates to Violation #2, through incorporation of the findings of the previous motion into this motion, and that the Zoning Enforcement Officer be upheld based on the same rationale as the previous motion, seconded by Russ Parmele. The Board voted 6-0 to approve the motion. (Ayes: Cross, Pinto, Parmele, Pearce, Shell, and Brewington. Nays: None.)

POINT OF CLARIFICATION

Mr. Cross made a point of clarification on the necessary findings for approval and denial of variance requested. If the Board moves to grant a variance all of the elements must be found present for the granting. If the Board moves that the request be denied only one of elements must be found not to be met. However, to strengthen the finding of the Board, should further action be taken, all elements that are not met should be mentioned.

C) BOA-08-013: 2401 MARSTON ROAD EN CHU SWANEY REQUESTS A VARIANCE FROM THE MAXIMUM FENCE HEIGHT REQUIREMENT. VIOLATION: A PROPOSED PRIVACY FENCE WILL EXCEED THE MAXIMUM HEIGHT OF 4 FEET BY 2 FEET WITHIN 15 FEET OF WEST CONE BOULEVARD AND MARSTON ROAD RIGHTS-OF-WAY. SECTION 30-4-9.6 (A), PRESENT ZONING-RS-15, BS-53, CROSS STREET-WEST CONE BOULEVARD. (DENIED)

Rawls Howard stated that En Chu Swaney is the owner of the property located at 2401 Marston Road. The lot is located at the northwestern intersection of West Cone Boulevard and Marston Road on zoning map block sheet 53 and is zoned RS-15. The applicant is proposing a future single family house on this property. The applicant also wants to install a privacy fence. The proposed fence will exceed the maximum height of 4 feet by 2 feet within 15 feet of the West Cone Boulevard and Marston Road rights-of-way. The property is a corner lot. West Cone Boulevard is classified as a major thoroughfare. The lot is rectangular shaped and contains approximately 33,000 square feet of area. It is Lot 1 of Cone Mills Subdivision, recorded in Plat Book 111, Page 65 at Guilford County Register of Deeds office. In reference to Section 30-4-9.6(A) *Residential Uses*: "Except as provided in this subsection, no fence shall exceed four (4) feet in height within fifteen (15) feet of any public or private street right-of-way. On lots where the rear and side yard adjoins a major thoroughfare or a minor thoroughfare and there is no driveway access and no sight distance interference, no fence shall exceed six (6) feet in height within fifteen (15) feet of the thoroughfare right-of-way. Otherwise no fence shall exceed seven (7) feet in height." The applicant's drawing shows a proposed set of gates and a driveway adjacent from the West Cone Boulevard right-of-way. In reference to Section 30-4-9.6(E)1) *Measurements*: "Fence height shall be measured at the highest point, not including columns or posts, of the fence section as measured from the grade on the side nearest the abutting property or street." The proposed fence will be located 4 feet from the property line adjacent to West Cone Boulevard and Marston Road. The applicant has stated that construction materials for the privacy fence will consist of wood and brick columns. The applicant will need to submit a drawing to Greensboro Department of Transportation so they may determine that this fence meets the City's current Sight Obstruction Ordinance and is not a hazard to motorists. The applicant has stated that the additional height is needed to reduce the traffic noise from West Cone Boulevard and to provide adequate privacy. The adjacent properties are also zoned RS-15.

Chair Cross asked if there was anyone wishing to speak in favor of this matter.

Bill Kennedy, 101 Willoughby, as the builder of the property, stated that the owner is requesting a variance to allow for a 5-foot high fence, not a 6-foot high fence. He stated the fence was being constructed to cut down on noise from Cone Blvd. and Marston Rd., and to prevent pets from running into the streets. He expressed that it was his belief that a 4-foot high fence would not adequately cut the noise from traffic. The fence would be set back 2 feet from the property

line on Cone Blvd., and 4 feet from the property line on Marston Rd. He stated the fence would be built of deck material, with brick columns, and would include a 14-foot iron gate. Mr. Kennedy did not present any evidence of different levels of noise deferment between a 4-foot high fence and a 5-foot high fence.

Ms. Averett stated that the intent of the ordinance was to prevent sight obstruction for safety purposes and beautification.

Chair Cross asked if there was anyone wishing to speak in opposition to the request and no one came forward.

The Board members commented that it was felt that there no evidence that a one foot variance would help prevent noise problems, and that a reasonable use of the property can be made by constructing a 4-foot high fence.

Mr. Pearson moved to deny the variance for BOA-08-13 based on the stated findings of fact, and that the Zoning Enforcement Officer be upheld based on the following; the applicant has presented no evidence that no reasonable use of the property can be made. Mr. Cross amended the motion to include that there has been insufficient competent evidence to show that but for the granting of the variance that there would be no reasonable use of the property. The motion, as amended, was seconded by Mr. Pinto. The Board voted to approve the motion 6-0. (Ayes: Cross, Pinto, Parmele, Pearce, Shell, and Brewington. Nays: None.)

**D) BOA-08-14: 1709 ROLLNG ROAD THOMAS AND MARY ANNE HARDIMAN
REQUEST A VARIANCE FROM A MINIMUM SIDE SETBACK REQUIREMENT.
VIOLATION: AN EXISTING SINGLE FAMILY DWELLING ENCROACHES 2.97 FEET
INTO A REQUIRED 5-FOOT SIDE SETBACK. TABLE 30-4-6-1, PRESENT ZONING-
RS-7, BS-23, CROSS STREET-WEST FRIENDLY AVENUE. (GRANTED)**

Rawls Howard stated that Thomas and MaryAnne Hardiman are the recent purchasers of the property located at 1709 Rolling Road. The lot is located on the south side of Rolling Road, just south and west of West Friendly Avenue on zoning map block sheet 23 and is zoned RS-7. The applicant is requesting a variance for an existing single family dwelling which encroaches 2.97 feet into a 5-foot side setback.

HISTORICAL DATA

The original plat was recorded at Guilford County Register of Deeds Office on November 2, 1935. The property (1709 Rolling Road) was described as Lot 13 of the Sunset Hills Subdivision, Section One. The lot was recorded as a rectangular lot – 60 feet wide by 150 feet deep containing 9,000 square feet.

On October 20, 1997, a deed transfer referencing (1707 Rolling Road) Lot 14, part of Lot 13 and part of Lot 15 was recorded at the register of deeds in Deed Book 4600 Pages 130-132. Lot #13 had transferred a small strip of their lot (about 3 feet wide) to Lot #14; thus creating a bend in their side western lot line.

In February 1999, a request was made for approval for the lot line changes (which still left the then vacant lot in compliance in reference to lot width and area). Planning approved the exempt recombination request concerning the change of shifting the property line. The shift created a new side lot line that became slightly angled. The requirement was to either record the change by plat or do a recombination deed. The owner opted to record the metes and bounds deed, and did not record a new plat. Each Board Member has a copy of the exempt recombination drawing in their packet.

About four months later in June 1999, a contractor applied for a building permit to construct a new dwelling on the lot. Building Inspection Records indicate that on June 24, 1999 a footing inspection was approved for the house location. Speculation at this point is that the contractor or his surveyor relied on the original plat to mark the property lines.

Planning is of the opinion that this variance request qualifies for **unintentional inspector error**. Again, not knowing for certain, but using our best estimated guess that the building inspector had no way of knowing the property line had shifted by deed and the inspector was relying on the contractor to have the property lines correctly marked. (Building Inspections Department had recently disposed of the files concerning the site drawing for this house. They are not required to keep certain records beyond 5 years).

Section 30-9-6.10(C) (5) states: "A variance may be granted where a building permit has been issued and, due to **unintentional error** of the Enforcement Officer in determining the location of the structure on the property, there is a minimal violation of the dimensional requirements in Article 4, provided that such relief may be granted without substantially impairing the purpose and intent of this Ordinance." The attached carport portion of the house located on the adjacent lot is approximately 5 feet from the side lot line; thus the separation between the two structures is approximately 7 feet. The adjacent properties located to the east and west are also zoned RS-7 and the adjacent properties located to the south are zoned RS-9.

Chair Cross asked if there was anyone wishing to speak in favor of this matter.

Tom Hardiman, 1709 Rolling Rd., stated that he was aware of the idiosyncrasies of the property that created the issue with the property. The issue was brought up as an issue with a refinance of the property.

Chair Cross asked if there was anyone wishing to speak in opposition to the request.

Travis Vin, 1707 Rolling Rd, stated that he was not against the granting of the variance in principle, but was concerned about recourse for the unintentional inspection error, as his property would essentially lose the three feet in question. Mr. Cross stated that there were no known setback issues with Mr. Vin's property.

The Board members commented that it was felt that based on the error there is no reason not to grant the variance, considering that the building is already built and the infraction is minimal.

Mr. Pinto moved to grant the variance for BOA-08-14 pursuant to Sec. 30-9-6.10(C) (5) of the City Ordinances based on the finding of facts as stated and the Zoning Enforcement Officer be overruled, incorporating by reference the finding of facts read by staff, finding that there was an unintentional error of an enforcement officer in determining the location of the structure on the property, and that the violation is a minimal violation, seconded by Mr. Parmele. The Board voted to approve the motion 6-0. (Ayes: Cross, Pinto, Parmele, Pearce, Shell, and Brewington. Nays: None.)

SPECIAL EXCEPTION

A) BOA-08-15: 2002 WEST CONE BOULEVARD MICHAEL AND DEWANDA MCINTYRE REQUEST A SPECIAL EXCEPTION AS AUTHORIZED BY SECTION 30-5-2.37(B) TO ALLOW A SEPARATION OF 1,100 FEET FROM ONE FAMILY CARE HOME (6 OR LESS PERSONS) TO ANOTHER FAMILY CARE HOME (6 OR LESS PERSONS) WHEN 1,320 FEET IS REQUIRED. PRESENT ZONING-RS-9, BS-51, CROSS STREET-LAWNDALE DRIVE. (GRANTED)

Rawls Howard stated that Michael and Dewanda McIntyre are the owners of the property located at 2002 West Cone Boulevard. The lot is located on the north side of West Cone Boulevard east of Lawndale Drive on zoning map block sheet 51. The property is zoned RS-9. The applicant is requesting a Special Exception as authorized by Section 30-5-2.37(B) to locate a proposed family care home (6 or less persons) 1,100 feet from an existing family care home (6 or less persons) instead of the required spacing of 1,320 feet. This location will not meet the spacing requirement by approximately 220 feet. This measurement is established from property line to property line. The existing family care home is located at 2203 Wanda Drive, which is located east and slightly north of the proposed family care home. The homes are separated by a large apartment complex and a major thoroughfare (Lawndale Drive). Ordinance Section 30-5-2.37 is attached for reference which describes the ¼ mile separation requirement intent. The intent is not for the homes to cluster and the residents to cloister themselves. Attached is a copy of an updated report for Board of Adjustment Special Exception requests for family care homes from January 2003 through April 2008. The adjacent properties located to the east are also zoned RS-9 and the adjacent properties located to the north and west are zoned RM-18.

Chair Cross asked if there was anyone wishing to speak in favor of this matter.

Dewanda Curry-McIntyre, 5911 Boxelder Cove, stated that she wishes to open a family care home, and she would be available for any questions the Board may have.

Chair Cross asked if there was anyone wishing to speak in opposition to the request and no one came forward.

The Board members commented that there seemed to be several physical separations between the nearest existing homes including two large apartment complexes and two large thoroughfares. Thus there seems to be enough mitigating factors to prevent clustering.

Mr. Brewington moved to grant the special exception for BOA-08-15 based upon the sated finding of facts, and based on the fact that the variance is in harmony with the general purpose

and intent of the ordinance and preserves its spirit, that the family care home in question is separated from the nearest family care homes by two major thoroughfares and two major apartment complexes providing sufficient buffer zones. The granting of this variance assures that the public safety and welfare upholds substantial justice because it is felt that clustering is avoided based on the barriers. Mr. Pinto seconded the motion. The Board voted to approve the motion 6-0. (Ayes: Cross, Pinto, Parmele, Pearce, Shell, and Brewington. Nays: None.)

OTHER BUSINESS

Mr. Howard stated that staff was preparing a draft set of rules and procedures for the Board. The draft recommendation on rules and procedures should be presented to the Board before the next meeting.

The staff would like comments from the Board on possible topics to be covered, legal updates, and scheduling in a session with the members of the School of Government.

Mr. Howard discussed that the Board will be receiving periodic legal updates from staff at the end of future meetings when necessary.

The Board and staff discussed the ethics opinion from the NC BAR concerning speakers' representation of applicants by individuals not holding a license to practice law. The Board expressed a desire that the city notify the applicants before the time of the meeting. The staff discussed possible notification of speakers and will be forming a procedure for notification.

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There being no further business before the Board, the meeting adjourned at 4:21 p.m.

Respectfully submitted,

John Cross, Chair
GREENSBORO BOARD OF ADJUSTMENT

JC/jd